

**IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

Creative Home Designs, Inc.,)	
)	Case No. 3:06-0039
Plaintiff,)	
)	Judge Echols
v.)	Magistrate Judge Griffin
)	
Chris Turner, and Imagine Home Design,)	
LLC,)	
)	
Defendants.)	

DENIAL OF ENTRY OF DEFAULT

Pending is Plaintiffs' Motion for Entry of Default Judgment against Defendant Chris Turner (Docket Entry No. 98).

Plaintiff's motion must be denied as Plaintiff has not submitted an appropriate affidavit of military service as is required by the Servicemembers Civil Relief Act of 2003 (50 App. U.S.C. 501 et seq.). The Act requires that affidavits be submitted that "state whether or not the Defendant is in military service and **showing facts necessary to support the affidavit**" (emphasis added). Information on the military status of an individual can be obtained at the Department of Defense website at <https://www.dmdc.osd.mil/scra/owa/scra.home>. That website provides an on-line search utility (SSN required) as well as a help button link that provides information on where requests for information can be sent (no SSN required) to determine whether a particular individual is on active duty in the military. Alternatively, a sworn statement or declaration from the Defendant or someone in a position to know the military status of the individual could be accepted. Other factors, such as the age of Defendant if beyond the age for service can be considered.

In addition to the lack of an affidavit of military service, the Clerk notes that Defendant Turner has now filed an Answer (Docket Entry No. 106) to the Second Amended Complaint (Docket

Entry No. 93). The timeliness of the filing of this Answer is now before the Court, as Defendant Turner's Motion to Extend the Time for Filing (Docket Entry No. 102) remains pending. The Clerk will not intrude into this litigation by entering default prior to the Court's ruling on Defendant's motion. Should the Court deny Defendant's motion to extend the time to file an answer, Plaintiff may provide the required affidavit of military service and renew its motion to enter default.

Accordingly, for the reasons stated above, the Clerk declines to enter default against Defendant Chris Turner at this time.

s/ Keith Throckmorton
Keith Throckmorton
Clerk of Court